IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 24141 of 2003

Between:

R.Narayana Murthy, S/o. Sankara Narayana
R/o. 23-16-29 Ramamandiram Street,
S.N.puram, Vijayawada.

..... PETITIONER

AND

1 Asst. Commissioner of Labour, Vijayawada, Krishna District
2 Dy.Commissioner of Labour Appellate Authority under APSE Act 1988
Eluru, West Godavri District.
3 M/s.Executive Club, A/c Restaurant, ITI Road,
Vijayawada rep. by its Chairman.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly in the nature of Writ of Certiorari and set aside the order in I.A.No.3/2003 in APSA No.7/2003 on the file of R2 Dated: 15-9-2003 after calling for the records.

Counsel for the Petitioner: MR.K.S.MURTHY

Counsel for the Respondent Nos.1 and 2: GP FOR LABOUR

Counsel for the Respondent No.3: K.ANANDA RAO

The Court made the following :

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ORDER:

Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner herein by way of Writ of Certiorari seeks to assail the orders dated 15-09-2003 passed by the second respondent herein rejecting an application filed in I.A.No.3 of 2003 pending an appeal.

The case of the petitioner is that it is only with a view to buttress his claim the present application was filed to receive certain documents as additional evidence, which has been rejected on merits and on erroneous grounds.

The learned Counsel for the respondents herein sought to sustain the impugned orders on the ground that those documents in fact have no relevance to the question in issue, nor will have any bearing on the same.

Considering the submissions made and on perusal of the material it is seen that the present application as filed by the petitioner is on par with an application as contemplated under Order 41 Rule 27 of the Code of Civil Procedure. It is now well established that such application should be considered only along with the merits in the main Appeal and not otherwise. Any disposal before hearing the appeal, such application is totally deprecated by this Court. In view of the same, the impugned order requires to be set aside.

The Writ Petition is, accordingly, allowed. The Second respondent herein is directed to dispose of the I.A.No.3 of 2003 along with the appeal on merits and in accordance with law, after giving opportunity to both sides. No costs.

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B.PRAKASH RAO, J.

Dated 07-12-2004.

skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Tuesday, the Seventh Day of December Two Thousand and Four.

..... REGISTRAR

To

1 Asst. Commissioner of labour, Vijayawada, Krishna District
2 Deputy Commissioner of Labour, Appellate Authority under APSE Act 1988 Eluru, West Godavri District.
3. 2CCs to G.P. for Labour, High Court Buildings, Hyderabad, (OUT).

4. 2CD copies